

REMARKS

The Office Action mailed March 5, 2004 required applicants to elect one group of claims under 35 U.S.C. 121 for further prosecution from:

Group I, claims 32-43, 59 and 60, drawn to a side block, classified in class 5, subclass 637; and

Group II, claims 56, 57 and 62, drawn to a lock member, classified in class 292, subclass 300.

Applicants provisionally elect, with traverse, for further prosecution in this application, the invention identified in the Office Action as Group II, claims 56, 57 and 62.

Groups I and II are related to each other in that Group I is directed to a side block and Group II is directed to a lock member for use in securing side blocks. If the restriction requirement is nonetheless maintained, applicants reserve the right of rejoinder of the subject matter of the non-elected claims or the right to pursue canceled subject matter in a continuation and/or divisional application.

It is respectfully submitted that examination of all of the claims pending in this application is in the spirit of the right of rejoinder such that the restriction requirement should be reconsidered, and reformulated or withdrawn entirely.

It would seem, that to require the filing of a separate divisional application(s) directed to Group I claims will result in the very same search being repeated, but at a later date(s). It is submitted that the duplicate search(es) would be quite inefficient to the operation of the Patent and Trademark Office. Furthermore, the same Examiner may be in charge of the divisional case; but since the divisional application will be examined at a much later date, the Examiner will have to conduct a duplicate, redundant search at the time he examines the divisional application.

Alternatively, if a different Examiner(s) were assigned to the divisional application, a significant loss of PTO efficiency would be incurred as a result of the examination of the divisional application(s).

Thus, the only logical outcome of the present restriction requirement would be to delay the examination of the Group I claims, resulting in inefficiencies and unnecessary expenditures by Applicants and the PTO, and since a single search can be performed for the claims without any significant burden on the Office, it is respectfully requested that this restriction requirement be withdrawn.

In this regard the Examiner is respectfully invited to consider the extreme prejudice to Applicants by the present restriction requirement, including: the necessity of having to pay an additional filing fee to the PTO and others for prosecuting each additional application; the loss of patent term for the Group I claims if Applicants must now file a separate application at this time directed thereto due to prosecution of such application beginning far later than prosecution to date in the present application; and to the post GATT 20 year patent term calculating from the earliest U.S. filing date.

Additionally, the Examiner is respectfully invited to review the text of MPEP §803, which in part states (with emphasis) that:

If the search and examination of an entire application can be **made without serious burden, the examiner must examine it on the merits**, even though it includes claims to distinct or independent inventions.

The results of the present restriction requirement are inefficiencies and unnecessary expenditures by both the Applicants and the PTO, and extreme prejudice to Applicants. Therefore, the restriction has not been shown to be proper, especially since the requisite showing

of serious burden has not been made in the Office Action, there are relationships between Group I and II claims. All of these militate against restriction.

Hence, it is evident that there is unity of invention and allowable subject matter in the pending claims, and in view of the foregoing, reconsideration and withdrawal of the requirement for restriction and favorable consideration of all of the claims on the merits are respectfully requested.

Thus, if the restriction requirement is nonetheless maintained, applicants reserve the right of rejoinder or the right to pursue canceled subject matter in a continuation and/or a divisional application as mandated by the MPEP.

In the Official Action, the Examiner has required applicants to elect a single disclosed species for prosecution under 35 U.S.C. §121 if no generic claim is finally held allowable. The Examiner has indicated that claims 56, 57 and 62 are generic. The species were listed as follows:

Species 1, drawn to Figures 1-13 & 19

Species 2, drawn to Figures 14 & 15

Species 3, drawn to Figures 16 & 17

Species 4, drawn to Figure 18A & 18B

The Examiner has indicated in the Official Action that the provisionally elected Group II claims, claims 56, 57 and 62 are generic. Applicants believe as well that each of claims 56, 57 and 62 read on each of Species 1 through 4. Although applicants are unsure whether they need to provisionally elect a species since all of the claims of the provisionally elected group are generic, if such an election is required, applicants elect Species I, drawn to Figures 1-13 and 19 for prosecution under 35 U.S.C. §121.

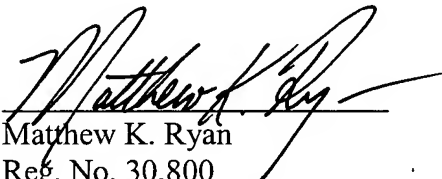
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Early and favorable examination of all of the claims on the merits is respectfully requested.

In view of the foregoing, reconsideration and withdrawal of the requirement for restriction and favorable reconsideration of Groups I and II claims on the merits are respectfully requested.

Respectfully submitted,
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